



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 591 and 592

Docket No. NHTSA-2015-0076

RIN 2127-AL63

**Allowing Importers to Provide Information to U.S. Customs and Border Protection in
Electronic Format**

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim Final Rule; request for comments.

SUMMARY: This interim Final Rule amends NHTSA's regulation on the importation of motor vehicles and motor vehicle equipment subject to Federal safety, bumper and theft prevention standards by allowing importers to provide information to United States Customs and Border Protection (CBP) in either electronic or paper format. Presently, certain regulatory provisions require importers to provide documentation or information in a "written statement" or in ways that imply the submission of a paper document, including the phrases "in duplicate," "a copy of," a "document," and "accompanied by a statement." Over the course of the coming months, CBP plans to allow importers to file importation information in paper format only or electronic format only. To allow importers to choose their preferred format for filing information required by NHTSA, the agency is amending its importation regulations to specify that importers have the

option to file all required information electronically, in addition to the paper option currently available.

This document is being issued as an interim Final Rule to provide timely assistance to importers by allowing alternative methods of filing with CBP the importation information required by NHTSA. The amendments in this interim Final Rule do not create any new rights or obligations, nor impose any new reporting requirements. The agency herein requests comments on the rule. The agency will publish a notice responding to any comments received, if any, and will amend provisions of the regulation if appropriate.

DATES: *Effective date:* This interim Final Rule becomes effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Comments: Comments on this interim Final Rule are due not later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments to NHTSA may be submitted using any one of the following methods:

- Federal eRulemaking Portal: go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, M-30, U.S. Department of Transportation, West Building Ground Floor, Rm. W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Rm. W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- Fax: (202) 493-2251.

Regardless of how you submit your comments, please be sure you mention the docket number of this document located at the top of this notice in your correspondence.

You may call the Docket at 202-366-9324.

Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Arijia Flowers, Trial Attorney, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202-366-5263).

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I. Background

Under 49 CFR Parts 591 and 592, importers of motor vehicles and motor vehicle equipment are required, among other things, to provide certain information to NHTSA at the time of importation, which is collected by CBP. In the past, CBP collected all information on paper but has moved to a system that allows for either paper format filing or a “hybrid” combination of paper and electronic filing. Beginning in the fall of 2015, and with pilot programs beginning in the summer of 2015, CBP is introducing a new data collection system that will allow importers to make an electronic reporting of commodities being presented for importation at U.S. ports. After implementation of this new system, CBP may require importation declaration documents to be filed in either all paper or all electronic format. CBP is currently advising that importers will no longer have the option of using the “hybrid” filing system.

Currently, there are several provisions within 49 CFR Part 591, *Importation of Vehicles and Equipment Subject to Federal Safety, Bumper and Theft Prevention Standards*, and a provision in 49 CFR Part 592, *Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards*, that either explicitly or impliedly require a paper filing for specific pieces of data. Thus, maintaining these provisions may mean that, once the new CBP data collection system is implemented, importers would be required to file on paper, imposing an unintended burden on those currently making hybrid filings. To avoid this result, this interim Final Rule amends the wording of the provisions in 49 CFR Parts 591 and 592 that explicitly or impliedly require paper filings clarifying that filings can be made in any format accepted by CBP. This rulemaking does not impose additional obligations or burdens on any party and, specifically, does not require filing of any new or additional information. Rather, it provides importers with the option of filing importation information already required under 49 CFR Parts 591 and 592 in either paper or electronic format, according to their preference.

In its rulemaking establishing a continuous entry DOT conformance bond, NHTSA required an importer to present to CBP at the time of importation a copy of Customs Form (CF) 7501. The requirement to furnish a copy of the CF 7501 was initially established at 49 CFR 591.6(c) and 49 CFR 592.6. The agency stated that the CF 7501 contained certain information such as the entered value of the vehicle that was necessary if NHTSA decided to enforce forfeiture of the DOT conformance bond. NHTSA has determined that it no longer needs information from the CF 7501 to pursue DOT conformance bond forfeiture and this requirement is being deleted from the regulation. Additionally, elimination of this previously required documentation will reduce the burden on importers.

This document is being issued as an interim Final Rule to provide timely assistance to importers by allowing alternative methods of filing importation documents with CBP. The

amendments in this interim Final Rule do not create any new rights or obligations, nor impose any new reporting requirements. The agency herein requests comments on the rule. The agency will publish a notice responding to any comments received and, if appropriate, will amend provisions of the regulation.

This rule also amends the delegations of authority to reflect the current CFR citations.

II. *Immediate Effective Date and Request for Comments*

The Administrative Procedure Act requires notice of a proposed rulemaking and opportunity for public comment unless an exception applies. 5 U.S.C. 553(b). One of these exceptions is when the agency finds good cause not to provide notice and public comment because public comment is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates that finding, and briefly states the reasons for that finding, in the rule. 5 U.S.C. 553(b)(3)(B). NHTSA has determined that there is good cause for not taking public comment prior to issuing this interim Final Rule since NHTSA does not anticipate any negative comments or opposition to allowing importers to file importation documentation in any format provided by CBP, making public comment unnecessary. Further, NHTSA has determined that there is good cause for not taking public comment prior to issuing this interim Final Rule because it is contrary to the public interest to take public comment where CBP is piloting the electronic filing system in the coming weeks, with implementation throughout fall 2015, and importers could be prevented from participating in both the pilot programs and the fully operational electronic filing system until these regulatory changes are made.

Further, the amendments in this interim Final Rule do not create any new rights or obligations not already present in 49 CFR Parts 591 and 592. Because this interim Final Rule

does not create any rights or obligations, the impacts of this rule are insignificant, making notice and public comment unnecessary.

As an interim Final Rule, this regulation is fully in effect and binding upon its effective date. No further regulatory action by the agency is necessary to make this rule effective. However, in order to benefit from any comments that interested parties and the public may have, the agency is soliciting comments on this notice. Should any pertinent comments be submitted, following the close of the comment period, the agency will publish a notice responding to those comments and, if appropriate, will amend the provisions of this rule.

III. *Regulatory Analyses and Notices*

A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the DOT's regulatory policies and procedures. This interim Final Rule was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866, "Regulatory Planning and Review." It is not considered to be significant under E.O. 12866 or the Department's regulatory policies and procedures.

This regulation amends 49 CFR Parts 591 and 592 to allow importers of motor vehicles and motor vehicle equipment to file customs declarations electronically, as available and offered by CBP, in addition to the paper format filing option otherwise available. This final rule does not require importers to use electronic filing, nor file any different or additional information when utilizing electronic filing and, instead, is designed to reduce the burden on importers by enabling them to utilize their preferred customs declaration format. Importers are not required to take any action(s) that they are not otherwise already required to take. Because there are not any

costs or savings associated with this rulemaking, which provides various filing options for importers, we have not prepared a separate economic analysis for this rulemaking.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., NHTSA has evaluated the effects of this action on small entities. I hereby certify that this rule would not have a significant impact on a substantial number of small entities. The interim Final Rule affects importers of motor vehicles and motor vehicle equipment, some of which qualify as small businesses. However, this rule does not significantly affect these entities because it does not require any additional actions on their part not already required by 49 CFR Parts 591 and 592, but instead provides an electronic filing option, in addition to the paper filing option, for customs declarations according to the importer's preference.

C. Executive Order 13132 (Federalism)

NHTSA has examined today's rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The interim Final Rule would not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This interim Final Rule also will not preempt any state law.

D. National Environmental Policy Act

NHTSA has analyzed this interim Final Rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

E. Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB clearance number. The information collection requirements for 49 CFR Part 591, *Importation of Vehicles and Equipment Subject to Federal Safety, Bumper and Theft Prevention Standards*, and 49 CFR Part 592, *Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards*, are covered by OMB control number 2127-0002. The amendments in today's interim Final Rule have no impact on the burden associated with this information collection.

F. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Public Law 104-113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments." The amendments in today's interim Final Rule allow importers of motor vehicles and motor vehicle equipment to file declarations with CBP electronically, using the electronic systems established by CBP, and do not involve any voluntary consensus standards as it relates to NHTSA or this rulemaking.

G. Civil Justice Reform

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, “Civil Justice Reform” (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA has considered these issues and determined that this interim Final Rule would not have any retroactive or preemptive effect. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). This interim Final Rule would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of \$100 million annually.

I. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

J. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Parts 591 and 592

Administrative practice and procedure, Crime, Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Surety bonds.

For the reasons discussed in the preamble, NHTSA amends 49 CFR Parts 591 and 592 as follows:

PART 591 – IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL SAFETY, BUMPER, AND THEFT PREVENTION STANDARDS

1. The authority citation for Part 591 is revised to read as follows:

Authority: Pub. L. 100-562, 49 U.S.C. 322(a), 30117, 30141-30147; delegation of authority at 49 CFR 1.95.

2. Amend § 591.5 by revising the introductory text to read as follows:

§ 591.5 Declarations required for importation.

No person shall import a motor vehicle or item of motor vehicle equipment into the United States unless, at the time it is offered for importation, its importer files a declaration and documentation, in a paper or electronic format accepted by U.S. Customs and Border Protection, which declares one of the following:

* * * * *

3. Amend § 591.6 by revising the introductory text and paragraphs (a), (b), (c), (d), (e), (f) and (g) to read as follows:

§ 591.6 Documents accompanying declarations.

Declarations of eligibility for importation made pursuant to § 591.5 must be accompanied by the following certification and documents, filed either on paper or electronically, as applicable:

(a) A declaration made pursuant to § 591.5(a) shall be accompanied by a written or electronic statement substantiating that the vehicle was not manufactured for use on the public roads or that the equipment item was not manufactured for use on a motor vehicle or is not an item of motor vehicle equipment.

(b) A declaration made pursuant to § 591.5(e) shall be accompanied by:

(1) (For a motor vehicle) a written or electronic document meeting the requirements of § 568.4 of Part 568 of this chapter.

(2) (For an item of motor vehicle equipment) a written or electronic statement issued by the manufacturer of the equipment item which states the applicable Federal motor vehicle safety standard(s) with which the equipment item is not in compliance, and which describes the further manufacturing required for the equipment item to perform its intended function.

(c) A declaration made pursuant to paragraph (f) of § 591.5, and under a bond for the entry of a single vehicle, shall be accompanied by a written or electronic image of a bond in the form shown in appendix A to this part, in an amount equal to 150% of the dutiable value of the vehicle, or, if under bond for the entry of more than one vehicle, shall be accompanied by a written or electronic image of a bond in the form shown in appendix B to this part, for the conformance of the vehicle(s) with all applicable Federal motor vehicle safety and bumper standards, or, if conformance is not achieved, for the delivery of such vehicles to the Secretary of Homeland Security for export at no cost to the United States, or for its abandonment.

(d) A declaration made pursuant to § 591.5(f) by an importer who is not a Registered Importer shall be accompanied by a paper or electronic copy of the contract or other agreement that the importer has with a Registered Importer to bring the vehicle into conformance with all applicable Federal motor vehicle safety standards.

(e) A declaration made pursuant to § 591.5(h) shall be accompanied by a paper or electronic version of the importer's official orders or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which the importer is accredited.

(f) A declaration made pursuant to § 591.5(j) shall be accompanied by the following documentation:

(1) A declaration made pursuant to § 591.5(j)(1)(i), (ii), (iv), or (v) and (j)(2)(i) shall be accompanied by a paper copy of the Administrator's permission letter, or for electronic reporting by entering the unique identifying number of the Administrator's permission letter into a U.S. Customs and Border Protection electronic data collection system, authorizing importation pursuant to § 591.5(j)(1)(i), (ii), (iv), or (v) and (j)(2)(i). Any person seeking to import a motor

vehicle or motor vehicle equipment pursuant to these sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle or equipment, its make, model, model year or date of manufacture, VIN if a motor vehicle, and the specific purpose(s) of importation. The discussion of purpose(s) shall include a description of the use to be made of the vehicle or equipment. If use on the public roads is an integral part of the purpose for which the vehicle or equipment is imported, the statement shall request permission for use on the public roads, describing the purpose which makes such use necessary, and stating the estimated period of time during which use of the vehicle or equipment on the public roads is necessary. The request shall also state the intended means of final disposition, and disposition date, of the vehicle or equipment after completion of the purposes for which it is imported. The request shall be addressed to: Director, Office of Vehicle Safety Compliance, Fourth Floor, Room W43-481, Mail Code NVS-220, 1200 New Jersey Avenue SE, Washington, DC 20590.

(2) A declaration made pursuant to § 591.5(j)(1)(iii) and (j)(2)(i) shall be accompanied by a paper copy of the Administrator's permission letter, or for electronic reporting by entering the unique identifying number of the Administrator's permission letter into a U.S. Customs and Border Protection electronic data collection system, authorizing importation pursuant to § 591.5(j)(1)(iii) and (j)(2)(i). Any person seeking to import a motor vehicle or motor vehicle equipment pursuant to those sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the equipment item or the vehicle and its make, model, model year or date of manufacture, VIN, and mileage at the time the request is made. The importer's written request to the Administrator shall explain why the vehicle or equipment item is of historical or technological interest. The importer shall

also state that until the vehicle is not less than 25 years old, (s)he shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize. If the importer wishes to operate the vehicle on the public roads, the request to the Administrator shall include a description of the purposes for which (s)he wishes to use it on the public roads, a copy of an insurance policy or a contract to acquire an insurance policy, which contains as a condition thereof that the vehicle will not accumulate mileage of more than 2,500 miles in any 12-month period and a statement that the importer shall maintain such policy in effect until the vehicle is not less than 25 years old, a statement that the importer will allow the Administrator to inspect the vehicle at any time after its importation to verify that the accumulated mileage of the vehicle is not more than 2,500 miles in any 12-month period, and a statement that the vehicle will not be used on the public roads unless it is in compliance with the regulations of the Environmental Protection Agency.

(3) A declaration made pursuant to § 591.5(j)(2)(ii) shall be accompanied by the importer's written statement, or by entering in electronic format information contained in the statement, into the U.S. Customs and Border Protection electronic data collection system, describing the use to be made of the vehicle or equipment item. If use on the public roads is an integral part of the purpose for which the vehicle or equipment item is imported, the statement shall describe the purpose which makes such use necessary, state the estimated period of time during which use of the vehicle or equipment item on the public roads is necessary, and state the intended means of final disposition (and disposition date) of the vehicle or equipment item after completion of the purpose for which it is imported.

(g) A declaration made pursuant to § 591.5(l) shall be accompanied by the following documentation:

(1) A paper copy of the Administrator's permission letter, or for electronic reporting by entering the unique identifying number of the Administrator's permission letter into a U.S. Customs and Border Protection electronic data collection system, authorizing importation pursuant to § 591.5(l). A Registered Importer seeking to import a motor vehicle pursuant to this section must submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle, its original manufacturer, model, model year (if assigned), date of manufacture, and VIN. The statement must also declare that the specific purpose of importing this vehicle is to prepare a petition to the Administrator requesting a determination whether the vehicle is eligible for importation pursuant to Part 593 and that the importer has filed, or intends to file within 180 days of the vehicle's entry date, a petition pursuant to § 593.5. The request must be addressed to: Director, Office of Vehicle Safety Compliance, Fourth Floor, Room W43-481, Mail Code NVS-220, 1200 New Jersey Avenue SE, Washington, DC 20590.

(2) [Reserved]

**PART 592 – REGISTERED IMPORTERS OF VEHICLES NOT ORIGINALLY
MANUFACTURED TO CONFORM TO THE FEDERAL MOTOR VEHICLE SAFETY
STANDARDS**

4. The authority citation for Part 592 is revised to read as follows:

Authority: Pub. L. 100-562, 49 U.S.C. 322(a), 30117, 30141-30147; delegation of authority at 49 CFR 1.95.

5. Amend § 592.6 by revising paragraph (a) to read as follows:

§ 592.6 Duties of a registered importer.

* * * * *

(a) With respect to each motor vehicle that it imports into the United States, assure that the Administrator has decided that the vehicle is eligible for importation pursuant to Part 593 of this chapter prior to such importation. The Registered Importer must also bring such vehicle into conformity with all applicable Federal motor vehicle safety standards prescribed under Part 571 of this chapter and the bumper standard prescribed under Part 581 of this chapter, if applicable, and furnish certification to the Administrator pursuant to paragraph (e) of this section, within 120 calendar days after such entry. For each motor vehicle, the Registered Importer must furnish to the Secretary of Homeland Security at the time of importation a bond in an amount equal to 150 percent of the dutiable value of the vehicle, as determined by the Secretary of Homeland Security, to ensure that such vehicle either will be brought into conformity with all applicable Federal motor vehicle safety and bumper standards or will be exported (at no cost to the United States) by the importer or the Secretary of Homeland Security or abandoned to the United States. However, if the Registered Importer has procured a continuous entry bond, it must furnish the Administrator with such bond, and must furnish the Secretary of Homeland Security (acting on behalf of the Administrator) with a paper or electronic copy, in a format accepted by U.S. Customs and Border Protection, of such bond at the time of importation of each motor vehicle.

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Issued in Washington, DC on August 25, 2015 under authority delegated in 49 CFR Part 1.95.

Mark R. Rosekind,
Administrator.

Billing Code: 4910-59-P

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